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THE PROBLEM OF THE NORTH

A STUDY IN ENGLISH BORDER HISTORY

THE task of bringing the border counties of England into line with the rest of the kingdom was not the least troublesome of the problems of internal policy that confronted Henry VIII. and his ministers. Wolsey handled the difficulty with very indifferent success; it remained for Cromwell (or for the King acting through Cromwell) to deal with the Pilgrimage of Grace and to undertake, after that movement had been suppressed, the reconstruction of the North. For this purpose the northern counties were placed under the direct control of the King and his council, and consequently to a great extent beyond the reach of Parliament and the common law. An offshoot of the privy council, called into being by royal commission under the official style of the President and Council of the North and vested with practically absolute administrative and judicial powers, was in 1537 placed at York.

This review of familiar facts raises the question of the origin of the problem which Henry VIII. solved in this arbitrary fashion. The answer to that question will affect any estimate of the character and motives of Henry VIII. For if the disaffection of the northern counties and their subsequent rebellion was due to the King's determination to render himself absolute, even at the cost of a change of religion, then the harsh treatment they received must be condemned as mere tyranny. But if the causes of the trouble in the North lay deeper than this, if the northern counties had from early times been kept on a footing somewhat different from the other English counties, so as never to have been quite assimilated to the rest of the kingdom, then Henry VIII.'s measures will appear in an altered light. In the King's dealing with the North will be seen an effort to complete the consolidation of England which will go far to account for, if not to mitigate, the harshness and brutality which were undoubtedly practised. It is hoped that the present study will show this to be the just view of the case.

The circumstances which differentiated the northern counties from the rest of England were, first, the fact that they did not actually form part of the kingdom until late in the reign of Henry II.; sec-

ond, the development, in the thirteenth century, of a special jurisdiction of the marches which in military and (although in a less degree) judicial affairs extended over Northumberland, Cumberland and Westmoreland, and influenced Lancaster, Durham and York; third, the war with Scotland during the fourteenth and fifteenth centuries, which tended to throw the administration of the border counties directly into the hands of the King and his council and to retard civilization by frequent devastations of the North; last, the circumstances of the Wars of the Roses, during which the extensive influence exerted in behalf of a revived feudalism by the families of Nevill and Percy created a feeling of local independence and segregation from the rest of the kingdom. These, in the main, were the factors that went to make up the problem which presented itself in the beginning of the sixteenth century. Some consideration of the points here suggested is necessary before passing to the efforts to solve the problem which culminated in the erection of the Council of the North.

The counties of Westmoreland, Cumberland and Lancaster, and Northumberland, Durham and York, formed parts respectively of the ancient kingdoms of Cumbria and Northumbria. The kingdom of Northumbria extended northward to the Forth and southward to the Humber, and the district between Forth and Tweed known as Lothian was not obtained by the Scots king until the year 1018.¹ Northumbria was conquered by Wessex and divided, and eventually the ancient kingdom split up into the two earldoms of Northumberland and York. It has been convincingly argued that the independence of the Northumbrians survived their conquest by the West Saxons, expressing itself at first in the influence exerted by the local witan in the choice of rulers, and later in the persons of the earls of Northumberland and the lords of the great northern franchises such as Durham, Richmond, Lancaster, Hexham and Tyne-mouth.²

The northwestern part of England had been, since the year 945, held by the Scots kings, of the English crown. But the suzerainty thus exercised was very vague and ill-defined.³

The counties of Northumberland, Cumberland, Westmoreland and Durham were not included in the Domesday Survey, and the accounts of Cheshire and Yorkshire show that the King had but a limited interest in those districts.⁴ The absence of the northern

¹ Hume Brown, *History of Scotland*, I. 43.

² W. Page, *Northumbrian Palatinates*, in *Archaeologia*, Vol. LI. pt. 1, pp. 143 ff.

³ *Anglo-Saxon Chronicle*, A. D. 945 (Rolls Series), I. 212-213; Stubbs, *Constitutional History*, I. 595.

⁴ *Domesday Book*, I. 262-270, 298-333.

counties from a survey which was intended to embrace the whole territory of England has never been satisfactorily explained, although it is generally accounted for on the ground that the North had not yet sufficiently recovered from the Conqueror's devastations to make it worth while to send commissioners there.¹ Now the county of Durham is understood to have been more effectively ravaged than any other part of the North.² But if the theory be accepted that in six years this county had not sufficiently recuperated to make it worth the King's while to send his commissioners there, how is this to be reconciled with the fact that in another six years³ the Bishop of Durham was able to build the greater part of what to-day remains the most splendid ecclesiastical fabric in England? It has been more plausibly suggested that the omitted counties were either in the hands of the Scots, "or else in such condition as no Commissioners dare adventure into them, to take the Returns of Juries, and make the Survey."⁴ At this time, probably, there was no very clear distinction between Lothians and Northumbrians as Scots and Englishmen, and the undescribed district included the earldoms of Cumberland and Northumberland, both of which possessed a high degree of local independence.⁵ Domesday Book was primarily a geld-book, and the chief purpose of the survey was to increase the King's revenue.⁶ Therefore the King would not send his commissioners into districts where he could not expect to take revenue. But it has been seen that the earldoms of Cumberland and Northumberland were independent of the crown in local affairs, and Durham and Chester, although not yet palatinates, already enjoyed high immunities.⁷ Again, the King had as yet no castle north of Tees. Bamborough belonged to the earls of Northumberland, Norham and Newcastle were still to be, and Durham, although founded by the Conqueror, belonged to the bishop.⁸ In the eleventh century,

¹ Kelham, *Domesday Book Illustrated*, p. 15; Ellis, *Introduction to Domesday*, I. 35-40.

² William of Malmesbury, *Gesta Pontificum* (Rolls Series), 271; *Domesday Studies*, II. 494.

³ This is the extreme limit. William de St. Carilef, Bishop of Durham, was banished in 1088 and did not return to England until 1093, when he immediately began the construction of Durham Cathedral. But there is nothing to prove that he might not have undertaken the work in 1088.

⁴ Brady, *Introduction to the Old English History*, App., p. 17.

⁵ *Pipe Rolls for the Northern Counties* (Society of Antiquaries of Newcastle-upon-Tyne), Introduction, p. iv.

⁶ Maitland, *Domesday Book and Beyond*, p. 3.

⁷ Page, *Northumbrian Palatinates*, in *Archaeologia*, Vol. LI. pt. 1., pp. 143 ff.; Sitwell, *The Barons of Pulford*, Introduction, p. ix ff.

⁸ Symeon of Durham (Rolls Series), II. 199-200, 260; Brand, *History of Newcastle-upon-Tyne*, II. 127 ff.; *History of Northumberland* (Northumberland County History Committee), I. 22.

then, the northern counties did not, for administrative purposes, form an integral part of the English kingdom.

During the first half of the twelfth century the Scots kings made an attempt to attach the north of England to their kingdom. This effort was much favored by the feudalization of the Scottish lowlands at the hands of Norman adventurers whose rapid success went far toward obliterating any distinction that might earlier have existed between the north-country Englishman and the lowland Scot. The Normans were welcomed by the Scots kings, from whom they obtained grants of land. They built castles and founded great families which, extending across the border in either direction, did homage to both kings.¹ The families of Bruce and Balliol were English before they were Scottish, and David I. was an English earl, as well as the Scots king.² In the law, as well, distinctions vanished and in the next century a version of Glanvill's book became popular in Scotland.³

So the similarity of language, institutions and religion, on either side of the border, conspired to make the adhesion of the northern counties of England to one or the other crown a matter of political convenience. The territory was equally fit to be worked into either kingdom in the then state of the royal power. Still, the English kings would no doubt have the more difficult task in proportion as they were able, in the rest of their kingdom, to apply strict principles of royal as opposed to feudal government. The body of the English kingdom could be controlled or coerced by a strong king, but in the North the feudal lords emulated the independence of their fellows across the border where the feudal system had reached a high development. This difficulty was complicated by that feudal interpenetration which has already been noticed and which proceeded to such an extent that many great barons could hardly have known to which nation they belonged.⁴

¹ Stubbs, *Constitutional History*, I. 596-597; Burton, *History of Scotland*, II. chs. xiii.-xiv.; Neilson, *The Motes in Norman Scotland*, in *Scottish Review*, October, 1898. The latter writer shows that no less than fifty-one Norman castles, constructed at this period, are still to be identified in the Scottish border counties.

² A less prominent but equally striking example of this feudal interpenetration of the two kingdoms is furnished by the family of Umfraville. In the thirteenth century Gilbert de Umfraville was earl of Angus in Scotland and also an English baron with wide estates in Durham and Northumberland. In 1297 his summons to the English parliament as earl of Angus created much perplexity. Again, in the early twelfth century the Scottish lordship of Liddesdale was held by Randolph de Soulis, a baron of Northamptonshire who had estates in Northumberland as well (*Placita de Quo Warranto*, Rec. Com., 604; Banks, *Baronia Anglica Concentrata*, I. 103-105; Armstrong, *History of Liddesdale*, pp. 123-125.)

³ Pollock and Maitland, *History of English Law*, I. 145, 200-201.

⁴ Stubbs, *Constitutional History*, I. 597; Pollock and Maitland, *History of English Law*, I. 202.

The history of the attempt of the Scots kings to acquire the northern counties of England, and the ultimate failure of that attempt, need not be reviewed here.¹ But one often unnoticed phase of the struggle is worthy of attention as showing the undecided—it is too early to call it disloyal—state of the North. Both David I. and William the Lion intrigued to bring the bishopric of Durham under their control, and nearly succeeded. The bishops of Durham were already great among the greatest of English immunitists, and were practically independent local rulers. Upon the death of Bishop Geoffrey, in 1140, William Cumin, a creature of David's, attempted to force himself into the vacant see. Cumin secured the adhesion of the majority of the barons of the bishopric and got *de facto* possession of the temporalities, which he held for three years' time. But he could not obtain either election or consecration, and in 1143 he was obliged to give way before a canonically elected bishop supported by a few of the barons of the province.² Again, in the rebellion of 1173 Bishop Pudsey intrigued with William the Lion, agreeing to allow the Scots to pass through the bishopric and to permit the landing of French and Flemish troops at his seaports.³

Even after the treaty of Falaise (1174), when the captive William was glad to accept what terms he could obtain, the Scots kings did not abandon hope of pushing their frontier southward, and it was not until 1238 that anything like a definite boundary between the two kingdoms was determined.⁴ Meanwhile Henry II.'s reorganization of the central government had accomplished the formal attachment of the northern counties to the English crown. But although the danger of these counties ever becoming Scottish was thus averted, a difference between them and the rest of England was frankly acknowledged in the institution and government of the marches against Scotland. Accordingly the nature of the march government and its reaction on the adjacent counties must be considered.

Such natural boundaries as the river Tweed and the Cheviot Hills could be, and were, defined and defended by castles of which

¹ See Burton, *History of Scotland*, II., chs. xiii-xiv; Stubbs, *Constitutional History*, I. 596-597.

² Symeon of Durham (Rolls Series), I. 143-167. The story is told at length, and in very indifferent verse, in the *Dialogues* of Laurence, prior of Durham, edited for the Surtees Society by the late Canon Raine, who discussed the whole question in an interesting preface. Laurence's account is contemporary.

³ Geoffrey de Coldingham, *Historia*, cap. vi., in *Historiae Dunelmensis Scriptores Tres* (Surtees Society), p. 10; Jordan Fantosme, *Chronicle* (Surtees Society), pp. 26, 72; Jerningham, *Norham Castle*, p. 100.

⁴ Burton, *History of Scotland*, II. 77-82.

Berwick, Norham and Roxburgh are types. But even these natural and artificial defences did not prevent constant raids and petty warfare which kept the whole country north and south of the border in a state of perpetual demoralization. Further westward, where the natural boundary failed, this dislocated condition was aggravated by the presence of a strip of debatable land. The most definite part of the border was open to dispute, and was much questioned even during the peaceful time in the thirteenth century.¹ But the marches do not clearly come into view until 1249, when, by a treaty concluded in that year between Henry III. and Alexander III., the vague body of rules that had hitherto formed the *modus vivendi* on the borders was arranged and amplified.² The east, middle and west marches of England against Scotland comprised parts of the counties of Northumberland and Cumberland and contained the fortified cities of Berwick-on-Tweed and Carlisle. This district was placed in charge of wardens of the marches, who administered march law, and had general civil and military powers. Under certain conditions their authority extended over the adjacent counties. The courts of the marches, or warden courts, concerned themselves chiefly with criminal matters such as march treason, which consisted of illicit communication with the Scots and was punishable with death. But they also entertained some contentious litigation.³ At the commencement of the fourteenth century the military authority of the march officials began to be extended over the adjacent counties. Their powers were much increased, and they were sometimes styled wardens of Cumberland, or Westmoreland, or Northumberland and the adjacent marches.⁴ The bishopric of Durham was at this time a county palatine into which the king's officers could not enter in the discharge of their duties. Chester, on the west, was in the same position, and north of Chester lay the great honor of Lancaster, soon to be raised to the palatine dignity.⁵ Thus at the beginning of the fourteenth century the whole of the north of England was under special or extraordinary administrative conditions.

In 1333 the judicial functions of the wardens of the marches were extended so as to include a kind of high police jurisdiction, with powers of arrest and imprisonment. Those who were im-

¹ *Royal Letters of the Reign of Henry III.* (Rolls Series), I. 186-188; *Foedera* (Rec. Com.), Vol. I. pt. ii., pp. 544-565.

² Nicolson, *Leges Marchiarum*, pp. 1-9.

³ Nicolson, *Leges Marchiarum*, p. 3; Redpath, *Border History*, pp. 17-96; Armstrong, *History of Liddesdale*, pp. 1-13.

⁴ *Rotuli Scotiae* (Rec. Com.), I. 135, 140, 141, 149, 166, 189, 194, 203; *Foedera* (Rec. Com.), III. 495.

⁵ Surtees, *History of Durham*, I. xv.-lv.; Ormerod, *History of Chester*, I. 9-55; Baines, *History of Lancaster*, I. 199-240.

prisoned by this authority could not be brought to trial before the justices of goal-delivery, but had to wait the King's special command. As this authority extended beyond the marches to the adjacent counties, these counties were thus to a certain extent withdrawn from the jurisdiction of the common law.¹

In 1370 the wardens of the marches were commissioned to visit all liberties, castles, and privileged districts in the northern counties, for the purpose of arresting offenders against their authority and, in general, of correcting abuses. They had also the duty of maintaining the truce recently concluded with Scotland, which involved a civil and criminal jurisdiction over causes and offenses arising under the terms of that truce.² Similar commissions issued in 1377.³ It may be inferred that the policy indicated in this extension of the wardens' authority was made necessary by the demoralized state of the northern counties after nearly a century of war with Scotland.⁴

Again, under pressure of the disorganizing effects of the war in the fourteenth century the plan of bringing the northern counties immediately under the control of the King and his council began to take shape. Already in 1297 the sheriffs of Lancaster, Westmoreland and Cumberland had a special responsibility to notify the King of invasions.⁵ In 1314 a special commission, including several of the King's ministers, was sent down to confer with the wardens and local magnates with regard to the safe-keeping of the marches and northern counties.⁶ In 1345 the northern prelates were commissioned to collect a similar assembly in the King's name, the decisions of which should be binding on the marches and neighboring counties.⁷ In the meantime the King was strengthening his personal hold on the North. In 1362 the duchy of Lancaster was erected into a palatinate for John of Gaunt,⁸ and in 1378 that prince was created king's lieutenant in the North and warden-general of the marches.⁹

¹ *Rotuli Scotiae* (Rec. Com.), I. 257; cf. *ibid.*, 276, 282, 398, 436.

² *Foedera* (Rec. Com.), III. pt. ii., 895-896.

³ *Rotuli Scotiae* (Rec. Com.), II. 2.

⁴ In the course of the fourteenth century there was a deliberate, but not very successful, effort to draw the northern counties closer to the English system by planting English colonists on, and even across, the borders. We hear a good deal of *Scotii Anglicati*, and even of *Scotia Anglicata*. But this effort, in spite of much encouragement at the hands of the English government, produced little effect. *Rotuli Scotiae* (Rec. Com.), I. 658, 752-753, 794, 856, 887, II. 207; Armstrong, *History of Liddesdale*, 131-134.

⁵ Nicolson, *Leges Marchiarum*, pp. 368-370.

⁶ *Rotuli Scotiae* (Rec. Com.), I. 113; cf. *ibid.*, 139.

⁷ *Ibid.*, I. 663.

⁸ Baines, *History of Lancaster*, I. 138; Stubbs, *Constitutional History*, II. 436-437, III. 448; G. E. C., *Complete Peerage*, II. 8-9.

⁹ *Rotuli Scotiae* (Rec. Com.), II. 14, 27, 36.

The palatine earldom of Chester was attached to the crown in the person of Edward I., and in 1389 it was permanently connected with the principality of Wales.¹ Finally, toward the close of the century the privy council begins to concern itself with the administration of the marches, auditing the accounts of the wardens and passing on their appointment.²

Thus during the fourteenth century the northern counties were kept on a different footing from the rest of England. Durham, Chester, and Lancaster were palatinates, and the two former sent no representatives to Parliament.³ Large parts of Northumberland and Cumberland were included in the marches, and the increased powers of the wardens, extending for certain purposes over all the northern counties, together with occasional special commissions, brought these counties more and more under the direct control of the King and his council, withdrawing them proportionately from the ordinary administration of the kingdom.

During the fifteenth century this tendency advanced more rapidly. In 1400 the council urged the King to go in person to the North to establish order, which was the more necessary as Richard had been very popular in that region.⁴ Later in the same year the council, sitting at Durham, adopted several measures for the defence and control of the marches. Two general superintendents were appointed, who, in association with the ordinary march authorities, formed a kind of conference or council. The loyalty of the North was doubted, for the superintendents were directed to see that the border garrisons be not composed of local troops.⁵ In 1402 and 1405 the council was again busy with the affairs of the North.⁶

As in the preceding century, the council passed upon the appointment of march officers, paid their salaries, and, in general, made provision for all expenses of defense and government in the North.⁷ Through the officers of the marches the council exercised a certain judicial authority in the North. This consisted chiefly in the application of measures for suppressing disturbances and as far as possi-

¹ Stubbs, *Constitutional History*, II. 47, III. 447; G. E. C., *Complete Peerage*, I. 225-227.

² *Proceedings of the Privy Council* (Rec. Com.), I. 9, 11, 12; *Rotuli Scotiae* (Rec. Com.), II. 96.

³ This exemption was regarded by the other northern counties in the light of an enviable privilege. Stubbs, *Constitutional History*, III. 463.

⁴ *Proceedings of the Privy Council* (Rec. Com.), I. 119.

⁵ *Ibid.*, I. 124-126.

⁶ *Ibid.*, I. 176-178, 255.

⁷ *Ibid.*, I. 333, 337, II. 8, 15, 17, 96, 108, 178, 213, III. 7, 8, V. 92, 100; *Rotuli Scotiae* (Rec. Com.), II. 219-220; *Calendar of State Papers* (Henry VIII.), II. pt. I, No. 1365. Money for the expenses of the North was obtained by the council either as prest-money, or by the assignment of the whole or part of some tax for this purpose.

ble preserving order. But in this direction the wardens and other officers had less discretion than was allowed them in the last century. Their commissions, it is true, conferred on them more general powers of inquiry, arrest and imprisonment, but their instructions were more minute, and in most cases accused persons were to be referred to the King and his council for punishment.¹

The increased occupation of the privy council with northern affairs also appears in the practice of sending, from time to time, a committee or deputation of that body to sit on the borders for some special purpose. This was generally to negotiate a truce with the Scots, or to adjust difficulties arising out of one already in force.² By a treaty in 1449 it was provided that in the event of either King's complaining of the state of the borders, or of infractions of an existing truce, the other should send down two or three members of his council as well to right the matter of immediate complaint as to take general cognizance of border affairs.³ These commissions, although primarily of a diplomatic and international character, included considerable powers of supervision and administration of local affairs.⁴ Also the influence of the King and his council in this direction expressed itself in the occasional organization of the march officers and local magnates into a kind of informal conference or council under the presidency of a royal lieutenant, foreshadowing the devices of the early sixteenth century which eventually crystallized into the Council of the North. This matter is of sufficient importance, as illustrating the conditions and requirements of the North in the late fourteenth and fifteenth centuries and their similarity to those of the sixteenth century, to require special attention.

The lieutenant of the marches or of the North was, as his title implies, the *locum tenens regis* in those parts, representing the King and drawing his authority from the crown and council and not from Parliament. The region placed under his control was therefore necessarily withdrawn from the ordinary administration of the kingdom.⁵ The lieutenant of the North first appears, under that title, in 1378, but when Sir Andrew Harclay was created earl of Carlisle in 1322 he was given a general custody of the northern counties that

¹ *Rotuli Scotiae* (Rec. Com.), II. 287; *ibid.*, II. 470-471. The commission to the Earl of Northumberland (A. D. 1480), referred to in the later citation, is of an unusually general character, which may be partly explained by the earl's great unpopularity in the North. He was afterward murdered in a popular rising. Holinshed, *Chronicles*, III. 769-770.

² *Royal Letters of the Reign of Henry IV.* (Rolls Series), I. 52-56.

³ Nicolson, *Leges Marchiarum*, p. 131.

⁴ Cf. Coke, *Fourth Institute*, ch. xxvi.

⁵ Cf. Armstrong, *History of Liddesdale*, pp. 7-10.

amounted to a lieutenancy.¹ In 1334 and 1350 a *solus superior custos* and a *capitaneus* of the North occur.² In 1378 John of Gaunt was created king's lieutenant in the North, with wide civil and military powers and general authority over all the wardens of the marches and northern magnates.³ He administered the North for four years and in 1380 received additional powers which rendered him virtually absolute there.⁴ In 1384 he was replaced by the Earl of Northumberland, who was styled commissary general and had royal authority to grant pardons and to receive outlaws into the king's peace.⁵ Similar appointments were made in 1387, 1391 and 1434;⁶ but they do not occur during the Wars of the Roses. In 1484 the Earl of Northumberland was created *custos regis generalis* in the North,⁷ and after the accession of Henry VII. he was reappointed with the specific purpose of pacifying that region.⁸ In virtue of this office he was described as the "Chiefe ruler of the North parts."⁹ After Northumberland's death Thomas Howard, earl of Surrey, was made lieutenant-general of the North and held office until 1497.¹⁰ It should be observed that all of these appointments are of a temporary or provisional nature. Men are sent down to accomplish a specific purpose and return. The notion of a lieutenant in permanent residence, representing the continual presence of the King, does not appear until the sixteenth century.

Passing now to the conference or council organized by these royal representatives, it is clear that such a body would be a natural outgrowth of the conditions of the North. It cannot be supposed that a number of wardens, deputies, and other officers of the marches, all owing obedience to one superior officer and all charged with the same duty of quelling disturbances and protecting the country, should not have met together to determine upon common measures for the maintenance of order, defence, or aggression. This kind of conference or association of the march officers occurs as early as 1314¹¹, and in the next year there is evidence that some sort of consultation regularly preceded all arrangements for truce or armistice

¹ *Foedera* (Rec. Com.), III. 495; Stubbs, *Constitutional History*, II. 371.

² *Rotuli Scotiae* (Rec. Com.), I. 277, 737.

³ *Ibid.*, II. 14.

⁴ *Ibid.*, II. 27, 36; *Foedera* (Rec. Com.), IV. 99.

⁵ *Rotuli Scotiae* (Rec. Com.), II. 65-66.

⁶ *Ibid.*, II. 89-90, 110, 287; *Proceedings of the Privy Council* (Rec. Com.), IV. 269-277, 295-297.

⁷ *Rotuli Scotiae* (Rec. Com.), II. 463.

⁸ *Ibid.*, II. 470-471, 484.

⁹ Holinshed, *Chronicles*, III. 769-770.

¹⁰ *Ibid.*, III. 769-770, 782-783; *Dictionary of National Biography*, XXVIII. 62 ff.

¹¹ *Rotuli Scotiae* (Rec. Com.), I. 113; cf. *ibid.*, I. 139.

with the Scots.¹ Instances of this sort of assembly, sometimes including the local magnates and sometimes only the march officers, recur in 1345, 1352 and 1370.² Finally, in 1383, John of Gaunt, as king's lieutenant in the North, presides over such a meeting.³ In the beginning of the fifteenth century John of Lancaster, second son of Henry IV., represented his father in the North, administering that region in association with a kind of council of march officials.⁴ The plan of combining the local authorities into a sort of council for the defence and administration of the North is apparent in the arrangements made by the privy council preparatory to the King's departure for France in 1415.⁵ The idea is continued during the fifteenth century by the frequent commissions which issued for the negotiation of truces and for their subsequent application and maintenance. These commissions generally included the officers of the marches and several of the northern barons and prelates, and were presided over by the royal lieutenant, if such an officer happened to be present. They were authorized to hear and determine litigation arising out of the terms of the truce and to take and imprison those who neglected them.⁶ Finally, when the young Duke of York became lieutenant of the North in 1498, a council of local notables was appointed to assist him.⁷

Another and a powerful force was tending, during this century, to separate the North from the rest of England. This was the increasing local influence of the baronage expressing itself in a kind of feudal reaction. Nowhere was this tendency more apparent than in the great northern families of Nevill and Percy. The barons were the shepherds of the people, and the people recognized them as their leaders.⁸ The new and vicious feudalism of the fifteenth century, with its livery and maintenance superseding the national military system and defeating justice, tended to loosen the bonds that drew the whole kingdom together and to foster a sense of remoteness and self-sufficiency in the North.⁹ Symptoms of this appear as early as 1404.¹⁰

¹ *Rotuli Scotiae* (Rec. Com.), I. 151; *Foedera* (Rec. Com.), III. 540, 541.

² *Rotuli Scotiae* (Rec. Com.), I. 663, 670, 752, 940.

³ *Foedera* (original edition), VII. 425.

⁴ *Proceedings of the Privy Council* (Rec. Com.), I. 315, 333, 350, II. 91-96, 136-139; Stubbs, *Constitutional History*, III. 60-61; Scott, *History of Berwick-on-Tweed*, pp. 85 ff.

⁵ *Proceedings of the Privy Council* (Rec. Com.), VI. 165.

⁶ *Rotuli Scotiae* (Rec. Com.), II. 237, 256, 266, 267, 268, 272, 286, 287, 292, 294, 345, 387, 390, 413, 434.

⁷ *Ibid.*, II. 517.

⁸ Stubbs, *Constitutional History*, III. 561.

⁹ *Ibid.*, III. 548-555.

¹⁰ *Royal Letters of the Reign of Henry IV.* (Rolls Series), I. 206, 207.

The northern baronage also contrived to keep the administration of the marches almost continuously in their own hands. Throughout the century Nevills and Percies are appointed and reappointed to the wardenships.¹ Dacres, Scropes, Mowbrays, Clifords and De Roos, as well as the palatine bishops of Durham, also appear frequently in this capacity, and these names fill out the list of northern barons who exerted local influence.² Thus the ordinary local influence of the baronage was intensified by their extraordinary powers as lords marchers, and this second power was so constantly exercised by the two greatest northern families that men could not discriminate between the ordinary and extraordinary authority of the Percies and Nevills. Finally, the disruptive clan system obtained on the English side of the border to a much greater extent than is commonly supposed.³

These, then, were the conditions and forces tending to differentiate the North from the rest of England up to the beginning of the sixteenth century. The demoralizing effect of border warfare is readily enough understood, but the statement that the disorganization extended beyond the marches to the five northern counties needs some illustration. In 1384 it was complained in Parliament that people from Durham and Chester were in the habit of making raids, for cattle-lifting and the like, into the adjoining counties and then returning to their privileged districts beyond the reach of punishment.⁴ In the fifteenth century an effort was made to correct these disorders by legislation, and the statute prepared for this purpose also sought to check the abuse of livery and maintenance. But the futility of the act is apparent in the means taken to enforce it. The lords in parliament and all lords of franchises were asked to take a personal oath to support the statute, which was also communicated to the bishop of Durham and the chamberlain of Wales with directions that they should exact a similar oath from the people of the two palatinates.⁵ In 1488 the people of the North declined to pay their share of a tax on movables which had

¹ *Proceedings of the Privy Council* (Rec. Com.), I. 337, II. 213, IV. 269-277, VI. 65-66; *Rotuli Scotiae* (Rec. Com.), II. 287, 313, 321, 355, 372, 377, 402, 407, 422, 442, 463, 484.

² *Ibid.*, I. 940, 962, II. 53, 266, 399, 472, 486, 498, 501, 517, 522; *Proceedings of the Privy Council* (Rec. Com.), VI. 65-66; *Foedera* (original edition), XII. 399, 647; Stubbs, *Constitutional History*, III. 547.

³ *Tract illustrative of the Border Topography of Scotland*, edited by Sir H. Ellis, *Archaeologia*, XXII. 161-171.

⁴ *Rotuli Parliamentorum*, III. 201.

⁵ *Ibid.*, IV. 421-422; Bishop Langley's Chancery Roll, C., ann. 30, m. 10, Durham, Cursitor, 36 (Record Office); Calendar of Welsh Records, *Deputy Keeper's Report* XXXVI. App. ii., p. 135.

been granted to the King for the war in Brittany. The Earl of Northumberland, then lieutenant in the North, brought the matter before the King who, fearing to establish a precedent, refused to remit any part of the tax. The earl was unpopular in the north, where Richard III. had been in great favor, and when he reported the King's answer, "the rude and beastlie people . . . furiouslie and cruellie murthered both him and diverse of his household servants."¹ This outbreak originated in York and Durham.²

Thus, by way of recapitulation, it appears that up to the accession of the Tudors, the North had never been governed like the rest of England. Not definitely English until the close of Henry II.'s reign, these counties might still have been assimilated to the general system of administration had not the failure of the royal line in Scotland plunged the two countries into a war which was destined to last into modern times. In the meanwhile, the necessity for keeping the marches in order quite withdrew portions of Cumberland and Northumberland from the regular administrative system and strongly affected the government of the neighboring counties. Repeated invasions and expeditions against Scotland, bringing large armies through the North, impoverished and demoralized the country, occasioning disorders which demanded some special form of government. The administration of justice and the maintenance of the peace were seriously crippled by the large number of privileged districts and the undue local influence of the baronage. The effort to meet these difficulties by placing the North under the immediate control of the King and his council did not prove effectual, and probably contributed to increase the existing disorganization. In this way it came to pass that the problem of incorporating the northern counties with the rest of England was yet unsolved at the accession of the house of Tudor. It can not be said that Henry VIII. reached a final solution of the problem. He crushed, however, a dangerous rebellion in his own time and submitted the northern counties to such a discipline, that they were able a century later to take their natural place in the kingdom.

Some notion of the conditions and requirements of the North at the beginning of the sixteenth century has now been obtained; it remains to examine the attempts made to meet these requirements up to 1537, when a policy was adopted that for a century served its purpose well. After Surrey had suppressed the rebellion of 1488,

¹ Holinshed, *Chronicles*, III. 769-770; *Materials for a History of the Reign of Henry VII.* (Rolls Series), II. 480.

² Holinshed, *Chronicles*, III. 769-770.

Thomas, Lord Dacre of Gilsland, a nobleman of much local influence in Cumberland, became warden of the marches and held that office with few interruptions until his death in 1525.¹ Up to 1522 Dacre, in association with Sir Anthony Ughtred, captain of Berwick, and Dr. Magnus, archdeacon of the east riding of Yorkshire, administered the North under the direction of Wolsey.² In this arrangement there is latent the notion of a lieutenant and council acting as the representatives of the central government, a notion which in its inception and rudimentary development has been traced through the fourteenth and fifteenth centuries. The warden corresponds to the lieutenant; he was in constant communication with the King and privy council, submitting to them detailed reports of his actions and receiving in return equally detailed instructions.³ In 1516 and again in 1518 the warden's influence over the civil administration of the northern counties was increased.⁴ Dacre's frequent consultations with Ughtred and Magnus, and their common reports to Wolsey, represent the local council.

After the victory of Flodden Field, in 1513, the chief duty of Dacre and his colleagues was to fortify the North and establish order. Their efforts to accomplish this end were continued with very indifferent success for eight years. But in 1521 it was made apparent to Wolsey that the existing arrangements were no longer adequate.⁵ At the same time the King's intimate relation with the Queen Dowager and the infant King of Scots and the attitude of the Duke of Albany, who represented the French influence in Scotland, made it imperative that the English government should have such complete control of the borders as to prevent the unforeseen outbreak of hostilities.⁶ New measures for administering the North were therefore devised, and this marks the close of the first stage in the development of the Council of the North.

Wolsey's device to meet the new requirements consisted in the mission of a royal lieutenant to put the North in order, and the

¹ *Calendar of State Papers* (Henry VIII.), III. pt. ii., No. 3096; IV. pt. i., No. 1727.

² *Ibid.*, I. No. 1850; II. pt. i., No. 1598; II. pt. ii., No. 3365.

³ *Ibid.*, I. Nos. 380, 3577, 4105, 4870, 5090; II. pt. i., No. 2620; II. pt. ii., Nos. 3386, 4547; III. pt. i., No. 1169. Several of Dacre's reports are printed *in extenso* in Raine, *North Durham*, p. vi. ff.

⁴ *Calendar of State Papers* (Henry VIII.), II. pt. i., No. 2481; II. pt. ii., No. 4547.

⁵ "A bill of information made unto my lord Cardinal's grace for the repressing of maintainers of murder within the county of Northumberland." *Calendar*, III. pt. ii., Nos. 1920-1921. This document may have been the work of Dacre and his associates, but its origin is not clear. The original marginalia show that nearly all prisoners were sent up to London to be dealt with by the privy council.

⁶ *Ibid.*, III. pt. ii., No. 2075.

organization of a secret, permanent council to aid the lieutenant and to carry on the policy he had inaugurated. It will be seen at once that this scheme contains no novelty beyond the definite and permanent organization of the council. All the elements were tried and familiar. In February, 1522, John Kite, the newly elected bishop of Carlisle, was sent northward with full instructions for organizing the secret council. The King, it was explained, intended shortly to appoint some proper nobleman as his lieutenant north of the Trent, "to set that country in readiness." In the meantime Kite was to join Dacre at Carlisle and there to assemble certain northern gentlemen, designated as councillors.¹ The council was presided over by Lord Dacre, and Kite acted as treasurer. Troops and funds were placed at its disposal and it was entrusted with the general administration of the North.²

The appointment of a lieutenant was put off until the summer, but in the meantime the council met at the summons of Dacre.³ It was not, however, as successful as had been hoped. In May, Kite reported to Wolsey complaining of want of money, charging various members of the council with inefficiency, avarice and dishonesty, and recommending that "some good captains should be sent down."⁴ Wolsey at once remanded Kite to his diocese and deprived him of his office of treasurer to the council, which he conferred on Dacre.⁵ It is clear that from the beginning Wolsey intended that the council should be no more than a convenient mechanism for carrying out his will in the North.⁶

The time has now come for the mission of a royal lieutenant and the choice fell upon George Talbot, earl of Shrewsbury. Shrewsbury, under the title of lieutenant-general of the North, was given wide powers and minute instructions. He was to go to York and there to take over the general command of the King's troops and garrisons in the North, to suppress disturbances and to administer impartial justice in all causes. In the matter of residence he was allowed to choose among the royal houses of Pontefract, Sheriff Hutton and Barnard Castle, the first two in Yorkshire and the latter

¹ These were Sir William, Sir Robert and Sir Marmaduke Constable, Sir William Bulmer, Sir Christopher Dacre (one of the wardens of the marches), and Sir Anthony Ughtred, captain of Berwick. *Calendar*, III. pt. ii., No. 2075.

² *Ibid.*, III. pt. ii., No. 2075.

³ *Ibid.*, III. pt. ii., No. 2186.

⁴ *Ibid.*, III. pt. ii., No. 2271.

⁵ *Ibid.*, III. pt. ii., Nos. 2294-2295, 2613. A letter from Kite to Wolsey announcing that he had transferred to Dacre the funds in his possession as treasurer of the council, seems to belong here rather than in the following year where it has been placed by Mr. Brewer. *Calendar*, IV. pt. i., No. 448.

⁶ *Ibid.*, III. pt. ii., No. 2318.

in Durham. This point is of importance as defining the territorial extent of the lieutenant's jurisdiction, which was to extend southward over Yorkshire and to include the county palatine of Durham. Finally, he was to accept the aid and advice of the secret council, to which he was to add certain gentlemen designated in his instructions.¹ It was not part of Wolsey's plan to keep a lieutenant permanently resident in the North. He seems to have thought that for the purposes of ordinary administration, Dacre's long experience aided by the collective wisdom and local influence of the council, and occasionally reinforced by the presence of a royal lieutenant, would suffice to keep the North in good order. But this calculation proved to be incorrect.

Shrewsbury's mission was uneventful and not very successful.² Accordingly in the next summer (1523) the King sent down Thomas Howard, earl of Surrey. Surrey joined the council and lost no time in taking an active part in the civil, military and judicial administration of the northern counties.³ He sat with the judges in their circuits, attempted to harmonize local factions, and in general informed himself of the condition and needs of the district under his control. In August he wrote to Wolsey that the administration of justice was slack and the abuse of livery and maintenance very prevalent, that the intention of the government to put the North in order was not taken seriously, and that Wolsey's method was ineffectual. In conclusion he suggested that some great nobleman be appointed to be continually resident, assisted by such a council as already existed in the marches of Wales.⁴ From this it appears that the northern counties were still in the chaotic and disordered state in which they had been in the preceding centuries. The suggestion of a council can not be taken to imply that the body organized the year before had been disbanded, for its report to Wolsey, in August, 1523, is evidence of its continued existence.⁵ This docu-

¹ These were the Lords Darcy, Latimer, Percy and Conyers, all north-country names. The councillors were to take oath according to a form subjoined to Shrewsbury's instructions. *Calendar*, III. pt. ii., No. 2412.

² *Ibid.*, III. pt. ii., No. 2544.

³ *Ibid.*, III. pt. ii., No. 3200.

⁴ The whole of this letter is important and interesting. Surrey complained that at Durham, where he sat with the judges, "only one man, an Irishman, was hanged." At Newcastle twelve indicted persons had escaped, and although eleven others were produced, it was impossible to get evidence against them because "so few of the gentlemen of Northumberland . . . have not thieves belonging to them." The whole system is weak, "the whole country thinks the talk of administering justice here is only intended to frighten them, as no man is appointed to continue among them to see justice administered." In conclusion he says that "the judges think it is ten times more necessary to have a council here than in the marches of Wales." *Calendar*, III. pt. ii., No. 3240.

⁵ *Ibid.*, III. pt. ii., No. 3286.

ment was clearly inspired by Surrey. It recommends that the privy council take active measures for the suppression of livery and maintenance in the North, that the local council hold four sessions annually for judicial purposes, and that "some great and discreet nobleman" should be made warden of the marches and required to remain permanently in the North to see that justice was effectually administered there.¹ Surrey saw what Wolsey could not or would not see, and if the lieutenant's policy had been immediately adopted it is by no means impossible that the central government might have obtained so firm a hold upon the North that it would have been able to withstand the great strain of the change of religion and its attendant circumstances that led to the rebellion of 1536. But Wolsey must have found it hard to accept the suggestion of his rival, particularly when that suggestion involved his resigning the personal direction of a part of the administration.

The plan was therefore received in a half-hearted way, and in October Surrey was made warden of the marches.² He had no wish, however, to remain long away from the court, and in December he left the North and was immediately succeeded in his office of warden by Dacre.³ Early in the new year (1524) the secret council assembled to take action on instructions newly sent down by Wolsey.⁴

The change in the King's relations with Scotland which declared itself in the summer of 1524 made it imperative that the borders should be controlled and kept quiet. Elaborate preparations were made for the meeting between the chancellor of Scotland and Surrey (now duke of Norfolk), who was sent north to carry out the king's intention of "erecting the young king of Scotland."⁵ The negotiation failed, the border relapsed into a disordered state and the council applied its energies to arranging raids—warden-rides they were called—into Scotland.⁶ It was now apparent that the secret council, even with the aid of a lieutenant, did not meet the requirements of the case. The scheme had failed, and something new had to be devised. Here, then, closes the second stage in the development of the Council of the North.

In the summer of 1525, Henry Fitz Roy, a natural son of Henry VIII., was sent to the North as a permanent representative

¹ *Calendar*, III. pt. ii., No. 3286.

² *Ibid.*, No. 3438.

³ *Ibid.*, III. pt. ii., No. 3626.

⁴ *Ibid.*, IV. pt. i., No. 219.

⁵ *Ibid.*, IV. pt. i., Nos. 474, 498, 506, 516, 525, 530, 535, 549, 571.

⁶ *Ibid.*, IV. pt. i., No. 762; see Armstrong, *History of Liddesdale*, pp. 217-

of the King's authority in that region. Henry, at this time six years of age, was created duke of Richmond, and appointed lieutenant-general north of Trent, keeper of Carlisle and warden-general of the marches.¹ To enable him to discharge the duties connected with these offices and to administer the North the young duke was surrounded with a council having very much the same membership as the earlier secret council. It contained also Dr. Magnus and William Frankleyne, archdeacon and temporal chancellor of the bishopric of Durham, a man of the same stripe as Magnus and, like him, an agent of Wolsey. Richmond remained in the North, chiefly at Pontefract and Sheriff Hutton in Yorkshire, until 1532. During this period his council, under the close supervision of Wolsey as long as he remained in power and afterward with greater independence, conducted diplomatic relations with Scotland and administered the northern counties in the name of the Duke of Richmond. This is a slight variation of the plan of a lieutenant and council, but it introduces the element of permanence and constant residence on the part of the royal representative. These arrangements form Wolsey's final contribution to the solution of the problem. If subsequent events proved it futile it did, at least, last his time and was by him considered adequate.²

But Wolsey was mistaken. The acts of the duke's council and its relation to the central government show that it was ineffectual. A vigorous policy and sufficient independence to permit of immediate action in the face of difficulties, were demanded by the situation. Norfolk had seen this at once and the failure of the secret council had corroborated him. But Wolsey shut his eyes to all this and kept the new council, as he had kept the old one, in close leading-strings. In the autumn of 1525 the duke's council wrote to Wolsey asking for money and for leave to appoint wardens and to fill a vacancy in its own body.³ The North was now in a very disturbed condition and great efforts were made to establish order to promote the King's negotiations with Scotland. Magnus, now English resident at the court of James, went to the borders, and Norfolk was again sent down as lieutenant. But all to no purpose. In December the Earl of Westmoreland, as a last resort, summoned an assem-

¹ *Ibid.*, IV. pt. i., Nos. 1431, 1510; *Dictionary of National Biography*, XIX. 204, 205.

² In 1526 the Scots King submitted to Henry VIII. a list of gravamina entitled, "Misrule of the Borders." Wolsey endorsed this document thus, "Provision is made already to this effect by the duke of Richmond's council;" showing that he considered the duke's council the solution of the whole northern difficulty. *Calendar*, IV. pt. i., No. 2292.

³ *Ibid.*, IV. pt. i., Nos. 1727, 1779.

bly of the gentlemen of the borders and the lieutenants of the marches and begged them to observe a kind of *modus vivendi* arranged by himself and the Earl of Angus.¹ In the meantime Wolsey sent for several members of the Duke of Richmond's council to confer with him at London.² By the spring some improvement had been effected,³ and in the course of the summer the council bestirred itself and began to attend to the civil administration of the North.⁴ In August it was sitting with the judges of assize at York and Newcastle in order to secure evidence and indictments, and was trying to keep the unruly clans or "surnames" quiet by paying them.⁵ In December the council was alarmed at the consequences of its own activity. There had been serious disturbances in the North and a number of raids and robberies on the borders. The council had begun to repress these vigorously but soon found itself in conflict with the Earl of Northumberland. Terrified by the great local influence of the Percies it at once gave over the whole affair, referring it to Wolsey and the privy council.⁶

Thus ends the first year of the council's administration, a record of timorous ineptitude. But this was probably as much the fault of Wolsey as of the council. He allowed it little independence and, occupied as he was with questions of international policy, neglected the North. A new pope had recently been elected and already the question of the divorce was beginning to overshadow all other problems; so Wolsey let affairs on the border take their course. The council, however, quite recognized its own inefficiency, and pointed out to Wolsey, in terms much the same as Norfolk had used four years earlier, the measures that ought to be taken to establish order in the northern counties. During the summer of 1527 it had continued its usual activities, corresponding with the Scots King about the affairs of the border and busying itself with the civil and judicial administration of the district under its control. It sat with the judges at York and Newcastle, and appointed members of its own body to the shrievalties of Northumberland and Cumberland.⁷ But its authority was disregarded and, doubting its own legality, it implored the king to maintain its credit.⁸ Uncertain and hesitating in

¹ *Calendar of Stat: Papers* (Henry VIII.), IV. pt. i., Nos. 1808, 1809, 1821, 1862 (ii).

² *Ibid.*, IV. pt. i., No. 1910.

³ *Ibid.*, IV. pt. i., Nos. 1980, 2004, 2031.

⁴ *Ibid.*, IV. pt. ii., No. 2402.

⁵ *Ibid.*, IV. pt. ii., No. 2402.

⁶ *Ibid.*, IV. pt. ii., Nos. 2729, 2993; *of. also ibid.*, No. 2608.

⁷ *Ibid.*, IV. pt. ii., Nos. 3344, 3404, 3477, 3501, 3610.

⁸ *Ibid.*, IV. pt. ii., No. 3383. This was in August, 1527; the letter is signed by Magnus, Parre, Bulmer, Foljambe, Tempest, Taite and Bowes, and countersigned by Uvedale, secretary of the council. See also *Calendar*, IV. pt. ii., No. 3552.

ordinary affairs, the council found itself absolutely incapable of coping with a difficulty connected with the escape from prison of two members of the Lisle family, which in the course of the summer threatened to develop into a popular rising.¹ In November the council wrote to Wolsey confessing its entire inability to deal with the problems confronting it, and asking that some great nobleman be sent down, "to lie continually in Northumberland."²

The communication demanded and received instant attention. On December 2, 1527, the Earl of Northumberland was appointed warden-general of the marches with directions to govern the North with the aid and advice of the council which, for the rest, had undergone some reorganization.³ The new warden went north at once, and after visiting the Duke of Richmond at Pontefract, joined the council at Newcastle.⁴ He immediately proceeded to inaugurate a policy of greatly increased severity by proclaiming serious temporal and spiritual penalties against all who did not submit to the King's mercy.⁵ On January 12 he held a march court at Alnwick, where nine persons were beheaded for march treason and five hanged for felony.⁶ All through the year (1528) he and the council submitted to Wolsey constant and detailed reports of their doings.⁷ Still the council was kept in leading strings, and when in March it undertook to appoint a *locum tenens* to supply the place of its secretary it was sharply snubbed by Wolsey.⁸ In October the council professed itself unable to settle a dispute between the Earl of Cumberland and Lord Dacre and submitted the case along with a number of other similar matters to Wolsey.⁹ But the chancellor continued to affirm the legality of the council's jurisdiction by occasionally referring to it cases of which it might appropriately take cognizance.¹⁰

For three years after the fall of Wolsey the history of the North of England is involved in great obscurity, owing to the extreme scarcity of documentary evidence.¹¹ Toward the close of the year 1531 the Earl of Northumberland, still warden of the marches, submits to the King a long report on Scottish affairs and the condition

¹ *Ibid.*, IV. pt. ii., Nos. 3383, 3501, 3552.

² *Ibid.*, IV. pt. ii., No. 3552.

³ *Ibid.*, IV. pt. ii., Nos. 3628, 3629.

⁴ *Ibid.*, IV. pt. ii., No. 3689.

⁵ *Ibid.*, IV. pt. ii., Nos. 3795, 3816.

⁶ *Ibid.*, IV. pt. ii., No. 3795.

⁷ *Ibid.*, IV. pt. ii., Nos. 3849, 3850, 4132-4134, 4925.

⁸ *Ibid.*, IV. pt. ii., No. 4042.

⁹ *Ibid.*, IV. pt. ii., No. 4855.

¹⁰ *Ibid.*, IV. pt. iii., No. 5430.

¹¹ *State Papers* (Rec. Com.), IV. introduction.

of the North.¹ The council is not mentioned, but its continued existence may be inferred from its subsequent reappearance and from the fact that the Duke of Richmond remained in Yorkshire until the spring of 1532.² Richmond's departure marks the formal close of the third stage in the development of the Council of the North. But the next period, from 1532 to the outbreak of the rebellion in 1536, presents no new elements and is characterized by retrogression rather than development. After Richmond had gone there was some question of sending Norfolk again as lieutenant. But this was dropped and Northumberland retained the civil and military administration of the North.³

The council reappears in January 1533. Cromwell was now well established in power and through his agent Sir George Lawson, treasurer of Berwick, began to deal with the problem of the North. After Richmond's departure his council had joined Northumberland and they acted in common, under the style of the Lord Warden and Council of the Marches. Cromwell accepted the existence of this apparatus and controlled it through Lawson, who had charge of all the King's money which was applied to the defence of the borders. In January, 1533, Lawson wrote to Cromwell advising that the King should "send a strait letter to my Lord Warden and the Council here," with regard to the mustering of troops.⁴ The council now consisted chiefly of the local gentry, each of whom was bound to produce a certain retinue or following when a "rode" was to be undertaken. They sat with the warden at Alnwick and were chiefly concerned with the defence of the borders and the arrangement of invasions or "rodes" into Scotland.⁵ They were under the close supervision of the central government, reporting constantly to Cromwell or to the King (sometimes by letter and sometimes in the person of one of their members sent to London for the purpose), and receiving detailed instructions from them.⁶ Besides this, Lawson, from time to time, communicated his opinion of the warden and council to Cromwell.⁷

Early in 1533 Lawson suggested that, instead of relying upon private retainues, the warden and council should resort to a general levy in the northern counties. This was partly owing to his distrust of the local nobility and gentry.⁸ In February Lawson re-

¹ *State Papers* (Rec. Com.), IV. Nos. ccxv., ccxxii.

² *Dictionary of National Biography*, XIX. 204-205.

³ *State Papers* (Rec. Com.), IV. Nos. ccxxv., ccxxix., ccxxxii., ccxxxv.

⁴ *Calendar of State Papers* (Henry VIII.), VI. No. 16.

⁵ *Ibid.*, VI. Nos. 51, 124, 155, 217, 260, 322.

⁶ *Ibid.*, VI. Nos. 17, 107, 113, 322, 375, 606, 909, 1048, 1187.

⁷ *Ibid.*, VI. Nos. 51, 217.

⁸ *Ibid.*, VI. No. 16.

peated his suggestion, with the significant recommendation that the troops raised in this fashion should be commanded by captains from some other part of England.¹ He continued to urge his plan, but Northumberland, who was looking back to the feudal glories of the Percies in the fifteenth century, successfully opposed it.² Had it been adopted it is possible that the rebellion might have been immediately crushed or even averted; but the King, like Wolsey when warned by Norfolk, would not or could not see.

The council at this time was composed of five or six persons several of whom had belonged to the Duke of Richmond's council.³ It was occupied with fortifying the borders, treating with the Scottish commissioners and, in a small way, with the general administration of the North.⁴ It was officially known as the Council of the Marches.⁵

This method of administration was continued up to the very eve of the rebellion.⁶ Lawson's prudent suggestion of a general levy was not accepted,⁷ but some slight ceremonial changes, emphasizing the character of the warden as immediate representative of the King, were introduced.⁸ Under pressure of larger interests of state the King and Cromwell were neglecting the northern counties, or only dealing with the disorders there in an abrupt and intermittent fashion that produced exasperation without relief and was worse than total neglect.⁹ Cromwell was conscious of this, for in June 1535 there appears in his memoranda a note regarding the suppression of riots in the North by means of establishing there such a council as already existed in the marches of Wales.¹⁰ But the matter was allowed to stand over. In the meantime events were hurrying to a climax and no measures had been taken for controlling the North. Cromwell's agent, Barlow, wrote to him from Berwick early in 1536 describing the disordered condition of the North. "Authority," he says, "must be given to execute justice without fear of partiality, otherwise admonitions only make things worse."¹¹ Still Cromwell

¹ *Ibid.*, VI. Nos. 124, 145.

² *Ibid.*, VI. Nos. 145, 217, 269, 1589; *State Papers* (Rec. Com.), IV. Nos. ccxxv., ccxl.

³ The members were: Magnus, Sir Thomas Clifford, Sir Thomas Wharton (who wore the Earl of Northumberland's livery but had been appointed at Cromwell's direction), and Sir Ralf Ellerkar. Both Magnus and Ellerkar had served on Richmond's council. *Calendar*, VI. Nos. 17, 51, 143, 150.

⁴ *State Papers* (Rec. Com.), IV. Nos. ccxlv., ccxvi.-ccclii.

⁵ *Calendar of State Papers* (Henry VIII.), VI. No. 150.

⁶ *Calendar of State Papers* (Henry VIII.), VIII. Nos. 696, 945, 992-994.

⁷ *Ibid.*, IX. No. 1078.

⁸ *Ibid.*, VIII. No. 100.

⁹ Froude, *History of England*, III. 96.

¹⁰ *Calendar of State Papers* (Henry VIII.), VIII. No. 892.

¹¹ *Ibid.*, X. No. 286.

was not to be roused. In the course of the summer things rapidly grew worse, grew, in effect, as bad as possible, and in October the rebellion broke out. The story of the Pilgrimage of Grace has been told elsewhere;¹ for present purposes its consequences alone are important. The effort to restore order in the North after the close of the rebellion forms the last stage in the development of the Council of the North.

The organized rebellion was brought to an end by the pacification at Doncaster, December 2, 1536, but the danger of a fresh outbreak was not passed until the execution of Aske in the following July. During these seven months the North was governed under martial law by the Duke of Norfolk and a council. Early in January (1537), Norfolk, who had gone home after the meeting at Doncaster, was again on his way northward.² A few members of the council which was to help him to restore order accompanied him; the rest were northern gentlemen who were appointed to join him at Doncaster. Norfolk's instructions show that the mission of a council and lieutenant at this time was a provisional measure. The King himself intended to go northward in the summer. Meanwhile, Norfolk and the council were to hear complaints, redress grievances and in general to pacify the North by exercising as much severity as could safely be applied. The part to be played by the council is also set forth in Norfolk's instructions, "that things may be handled substantially, so that people may see the good of law and the evil of violence, his Majesty has joined with the said Duke an honourable council . . . whose advice the Duke shall in all things use."³ The rebels were required to sue out their pardons individually, and to facilitate this process Norfolk was directed to go from place to place, administering to those who sued for pardon the oath of allegiance under a special form. He had express instructions to keep all who asked for pardons "dangling" until the King's arrival.⁴ The lieutenant and council were also instructed to promote the spreading of the new religion by official preachers, and to contrive if possible to remove the religious of suppressed houses who had returned to their former seats. The lieutenant and council had high judicial authority; they were to

¹ Gairdner's account will be found in the introduction to the *Calendar of State Papers*, Vol. XI., Froude's in the *History*, III., ch. xiii.; cf. A. L. Smith, in *Social England*, III. 21-25.

² *Calendar of State Papers* (Henry VIII.), XII. pt. i., No. 86.

³ *Ibid.*, XII. pt. i., No. 98.

⁴ *Ibid.* At Doncaster Henry had promised a free pardon to all and this is the way the promise was redeemed. Froude, the apologist, does not boggle at this; he says, "Norfolk was instructed to respect literally the terms of the pardon." *History*, III. 188.

hold a bi-weekly session replacing the visits of the judges and the local courts, and to make progresses through the country taking cognizance of all commotions and offences that had occurred since the granting of the pardon in December. Considerable allowance was made for Norfolk's inability to carry out these instructions, the whole tone of which is disingenuous¹ and indicates no intention on the part of the King "to respect literally the terms of the pardon."²

Norfolk reached Pontefract on February 2, 1537.³ In the meantime the abortive rising of Bigod and Hallam had occurred and on February 12 riotous scenes, amounting to a fresh outbreak of rebellion, took place at Carlisle.⁴ On February 14 the Council of the Marches—for so the body is styled in the contemporary endorsement of the letter—wrote to the King advising him to use greater severity in dealing with these troubles,⁵ a suggestion which Henry was not slow to accept. The pacification of the North now began in earnest. The King was alarmed by the renewed outbreak of the rebellion, and Norfolk, at no time over nice, was ready to go to almost any extreme of harshness to redeem himself from the suspicion of disloyalty that he had incurred by his dealings with the insurgents at Doncaster.⁶ On February 22 the King instructed Norfolk to proclaim martial law. "You must cause such dreadful execution," he wrote, "upon a good number of the inhabitants, hanging them on trees, quartering them, and setting their heads and quarters in every town, as shall be a fearful warning, whereby shall ensue the preservation of a great multitude."⁷ Norfolk was diligent in carrying out these instructions. In Cumberland six thousand persons were arrested and brought before the council, for no convictions could be secured by jury. Seventy-four were executed, "and, sir," wrote Norfolk to the King, "though the number be nothing so great as their deserts did require to have suffered,

¹ If any one refused the oath of allegiance, "the Duke, if he thinks himself able, shall use him as the King's rebel; and if he may not proceed to that punishment without danger, he shall pretend to make light of such a fool." Persons found guilty in the progresses of inquiry "he shall afterwards cause to be apprehended and executed, if it may be done without danger . . . and if he may not do that without danger, he shall look through his fingers at their offences, and free them to continue till the King's Majesty's arrival in those parts." *Calendar*, XII. pt. i., No. 98.

² Froude, *History*, III. 188.

³ *State Papers* (Rec. Com.), I. pt. ii., No. lxxix.

⁴ Froude, *History*, III. 182-190.

⁵ *Calendar of State Papers* (Henry VIII.), XII. pt. i., No. 421. This letter is signed by T. Clifford, W. Eure, J. Weddrington, R. Collingwood, L. Gray, C. Ratcliffe and J. Horslee, but the Earl of Northumberland and one of the Bowes were also members of the council; see *Calendar*, XII. pt. i., No. 86.

⁶ See Norfolk's letter to Cromwell quoted in Froude, *History*, III. 190.

⁷ *Calendar of State Papers* (Henry VIII.), XII. pt. i., No. 479.

yet I think the like number hath not be heard of put to execution at one time." ¹

These measures produced the required result, and by the middle of the summer the North was quiet. Whether it had been effectually pacified or merely stunned may be judged from the action of the next generation in 1569. For present purposes it should be noticed that the lieutenant and council of the marches were not regarded as a permanent institution. Some enduring machinery of government had yet to be devised. The discussion of this point is worth attention. A scheme of government submitted to the King early in March 1537 illustrates the general principles upon which Norfolk and Cromwell were agreed. These involved a permanent royal lieutenant and a council with greatly increased authority. It was proposed that some nobleman (who should also be a privy councillor) be appointed lieutenant, "with a discreet council commissioned to hear all causes in Cumberland, Westmoreland, Northumberland, the bishopric of Durham and Yorkshire, and that he [the lieutenant] for the most part abide in those parts." ² The march laws were to be reformed and the marches practically incorporated with the adjacent counties, the authority of the wardens passing to the lieutenant, who was to exercise some of these functions by deputy. Finally, the King was, as far as possible, to take into his own hands all lordships and special jurisdictions. ³

This proposition gave rise to a curious correspondence. Norfolk and his council continued to urge their scheme while Cromwell threw every difficulty in the way of its execution. Norfolk was told that no suitable nobleman could be found to assume the office of lieutenant; Dacre and Cumberland were on bad terms, Northumberland exerted too powerful an influence in the North. Would not the duke's authority, it was asked, "make even a mean man respected?" ⁴ But Norfolk declined to take the responsibility of suggesting any candidate until in April he mentioned, "for the King's ear only," the names of Lord Rutland and the Earl of Westmoreland. All through the negotiation, however, he insisted on the importance of the office being held by a nobleman. Early

¹ *Calendar*, XII. pt. i., No. 498. Froude calls this "wholesome severity" and "not excessive," *History*, III. 190-192. But even Norfolk boggled at the application of wholesome severity on this scale. Before undertaking the punishment of the eastern counties he wrote to Cromwell asking how many executions the King expected in that region, and adding "folks think the last justice at Carlisle great, and if more than 20 suff[er] at Durham and York it will be talked about." *Calendar*, XII. pt. i., No. 609.

² *Calendar of State Papers* (Henry VIII.), XII. pt. i., No. 595.

³ *Ibid.* All franchises and liberties had been much curtailed by act of Parliament in 1536,—27 Henry VIII., cap. xiv., *Statutes of the Realm*, III. 555.

⁴ *Ibid.*, XII. pt. i., No. 636.

in May the King closed the discussion with a characteristic letter. He thanks Norfolk for his advice but feels sure that he will accept the decision which the King has reached, "for we will not be bound to accept the services of none but lords."¹ The explanation of this episode lies in the relations of Cromwell and Norfolk. As long as the plebeian minister remained in favor the king did not altogether trust Norfolk. The duke perfectly understood this and chafed at being kept in exile in the North. Cromwell's advantage lay in the fact that no one in England was better fitted for the office of lieutenant than Norfolk, "whom all offenders in the North regarded as their scourge."² By trying to force Norfolk to accept the task Cromwell was able at once to serve his own ends and his master's cause.

As far as concerned the selection of an agent the King carried through his plan, for the choice ultimately fell upon Cuthbert Tunstall, the pliable bishop of Durham, who became lord president of the council, the title of lieutenant having been abandoned. For the rest Norfolk had his will, but at the cost of some tergiversation. He was ill, afraid of the harsh northern winter and determined to come home. The pressure that he was able to exert on the King may be judged from a note in Cromwell's agenda for the privy council in June 1537: "If the King will recall him [Norfolk], that then a council be established there as in the Marches of Wales, and lands appointed for its support."³ On June 12 the King notified Norfolk of his intention of postponing for a year his projected visitation of the North.⁴ Under these circumstances, and out of regard for the duke's health, the King wrote, "We doo purpose shortly to revoke you, and to establishe a standing Counseill ther, for the conservation of those Countreyes in quiete, and thadministration of comen justice: which, being ones sett in a frame, We shall incontinently call you unto Us."⁵ Norfolk's answer (June 15) shows that he was beginning to recede from his original position with regard to the necessity of having a nobleman as lieutenant, for he accepts as an equivalent the appointment of the bishop of Durham as president of the council.⁶ On July 8 he wrote to Cromwell that with a council under a president, and a minister of justice "so usyng

¹ *Ibid.*, XII. pt. i., Nos. 636, 651, 667, 916, 919, 1118.

² So wrote Sir Thomas Tempest to Cromwell in July 1537. *Calendar*, XII. pt. ii., No. 238.

³ *Ibid.*, XII. pt. ii., No. 177.

⁴ The reasons generally given for this change are, the delicate state of foreign relations, the queen's pregnancy and the king's own health, which made travelling very hard for him. But it is scarcely likely that Henry would have allowed any of these considerations to weigh with him if Norfolk's vigorous policy had not been so successful in subduing the North. *Calendar*, XII. pt. ii., No. 77.

⁵ *State Papers* (Rec. Com.), I. pt. ii., No. lxxxix.

⁶ *Calendar of State Papers* (Henry VIII.), XII pt. ii., No. 100.

hymself that men may be affrayed of hym, this contrey is nowe in that sorte, that none of the realme shalbe better governed than this."¹

Thus the question reached a final solution. There followed some discussion about the membership of the new body, which in the end included nearly all of those who had formed part of Norfolk's temporary council.² Norfolk remained in the North helping to set the new council in a frame, until September, when he was at length recalled.³ The jurisdiction of the Council of the North extended over the counties of Northumberland, Cumberland, Westmoreland, Durham and York. It had the general administrative and judicial control of this district. The council was authorized to maintain the peace and suppress disturbances, either by regular process of law or otherwise according to its discretion. It was enabled to take cognizance, to the exclusion of the ordinary courts, of all pleas and contentious litigation where one of the parties was so poor, or of such mean estate, as to be hampered in obtaining his remedy at the common law.⁴

The institution of the Council of the North contained no elements that had not been familiar, at least in a rudimentary form, since the fourteenth century. The novelty lay in the reorganization and development of these elements. The council was called into being by an act of royal prerogative, and its existence was an infringement on the authority of Parliament and the judiciary.⁵ But only the permanence and public sanction of this infringement were new. Every royal commission, every lieutenant and council of march officials that, since the fourteenth century, had sat in the northern counties, was equally an infringement upon the rights of constituted authority.

No doubt in the seventeenth century the Council of the North became at once an instrument of oppression and an obstacle to the normal development of the nation. But the institution must be judged by the conditions which brought it into being, not those under which it was abolished. To say that it impeded the progress of England in 1641 is to say that it had, at that time, no reason for existence; that it had made itself superfluous, resembling, in that respect at least, the ideal government. It has been the object of the present study to show that in the sixteenth century the Council of the North had a very urgent reason for existence.

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¹ *State Papers* (Rec. Com.), V. No. cccxxii.

² *Calendar of State Papers* (Henry VIII.), XII. pt. ii., Nos. 77, 100, 102, 249, 250 (2, iv.).

³ *State Papers* (Rec. Com.), V. Nos. cccxxv., cccxxviii., cccxxx., cccxxxiii.

⁴ Coke, *Fourth Institute*, ch. xlix.; Prothero, *Statutes and Documents*, introduction xc.-xci. The important parts of the commission are printed by Coke.

⁵ Coke, *Fourth Institute*, ch. xlix.